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The ultimate guide to the

Washington Long-Term Care Trust Act

Look out. There's a new payroll tax in town.

The new mandatory state payroll tax in Washington State under The Long-Term Care Trust Act is designed to fund long-term care benefits for its eligible residents.

If you are employed in Washington (or will be), read on. **This new tax will affect you.**

(206) 486-8700
info@cultivant.com

www.cultivant.com

How much is the tax?

The tax rate is 0.58% of wages.

For example, if your wages are $100,000 a year, your tax is $580 a year. At $200,000, the tax is $1,160, and so on.

The first payroll deductions begin January 1, 2022.

You might be curious if there's a ceiling on the income subject to the payroll tax. Unfortunately, no, there isn't.

It doesn't matter how much or how little you make. You're taxed 0.58% on all of your wages. That means if you make $1,000,000, the whole amount is taxable. So your tax bill is $5,800. With a $10,000,000 paycheck, your tax would be, you guessed it, $58,000.

The rate is set at 0.58% initially on January 1, 2022. Then it gets reset to 0.58% every two years starting on January 1, 2024. Between these reset dates, however, it's possible that the rate will go up to maintain solvency of the Program.

What counts as income?

"Wages" under this Act is the so-called "W-2 income."

The obvious ones are **salaries** and **bonuses**. But wages also include other forms of remuneration like:

- Stock options
- Restricted stock units
- Severance pay
- And others that get included in **Box 1** of Form W-2.

What if you're not a W-2 employee?

Is your income subject to the payroll tax if you are self-employed, an independent contractor, a sole proprietor, or a partner in a partnership?

The short answer is, no, your income is not taxable. But you may still opt in to be taxed.

You have until January 1, 2025 to opt in. Or if you become self-employed for the first time after that date, you can opt in within 3 years of becoming self-employed. The decision is irrevocable, so once you opt in, there's no turning back.

What is the benefit?

So what do you get in return for your contributions into the system?

Here's a quick rundown:

- Long-term care insurance coverage of $100 a day for one year ($36,500 total),
- The benefit amount will be adjusted annually at a rate no greater than the Washington Consumer Price Index,
- 45-day elimination (or waiting) period, and
- Providers must be on an approved list by the Department of Social and Health Services.

The benefits are the same for everyone. It doesn't matter what your income was or how much you contributed. Everyone gets the same benefits. That means the coverage for someone who contributes $5,800 a year for 30 years is the same as a worker who contributes $290 a year for 12 years.

Wait, but there's more. Only Washington residents can qualify for benefits. If you move out of state for 5 or more years, you forfeit your benefits and the tax you paid during your working years in Washington State.

To top it off, you have to vest to receive benefits. To permanently vest, you must work a minimum of 500 hours per year and pay the tax for at least 10 years without a break of 5 consecutive years. You can also vest on a temporary basis if you paid the tax for 3 years within the last 6 years from the date of application for benefits. So if you don't apply for benefits within the first few years of retirement, you'll eventually be unvested.

How to opt out

This payroll tax may not make sense if you are one of these people:

- **High income earners:** The premium for your own long-term care insurance will be less than the tax you'll pay. Plus your benefits will be far richer than the State-provided benefits.
- **Those retiring outside of Washington:** If your plan is to retire in another state, you will forfeit your benefits after 5 years despite paying the tax for many years.
- **Soon-to-retire workers:** If your retirement date is less than 10 years from January 1, 2022, you won't permanently vest. So your contributions will benefit others, but not you.
- **Younger workers:** If you're in your 20s and 30s (or even 40s) planning on finishing your career in Washington, your ROI will be low relative to how much you'll have contributed during your long career in the State.

Fortunately, there's a way to opt out of this tax. First, you must purchase your own long-term care insurance before November 1, 2021. Coverage must be **in place** by that date. This means that a pending, unapproved application will not count toward opting out.

You should note that the application process can take several weeks to several months depending on your health, access to medical history and so forth. Likewise, we anticipate carriers will experience a huge backlog. We are asking our clients to submit their applications by August 1, 2021 to give themselves the best chance for policy issuance by November 1st.

After your policy is in place (before the November 1, 2021 deadline), you must apply to opt out between October 1, 2021 and December 31, 2022.

Aug 1, 2021	Last day to submit your LTC insurance application to ensure policy issuance by the Nov. 1 opt-out date
Nov 1, 2021	Last day to place your LTC insurance in force to opt out
Oct 1, 2021	First day to apply to opt out
Dec 31, 2022	Last day to apply to opt out

Remember these important dates. If you miss them, you will forever be subject to the payroll tax for as long as you earn wages in Washington.

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Long-Term Care Insurance

Perhaps you are interested in exploring getting your own long-term care coverage to opt out of the State program.

Let's walk through what exactly is involved in applying for and getting coverage.

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The basics

Let's first outline basic features of a long-term care insurance policy.

Initial monthly benefit	$3,000
Benefit period	25 months
Total benefit pool	$75,000
Elimination period	90 days
Inflation protection	3% compound
Underwriting class	Preferred

Actual monthly costs of care in Washington State are substantially higher than $3,000.
We chose the benefit amount to approximate the State's $100 daily benefit.

Now, let's discuss the policy features in plain English:

- **Initial monthly benefit:** This policy will reimburse you for qualified costs of care up to $3,000 per month.
- **Benefit period:** You are covered for 25 months based on the $3,000 monthly benefit.
- **Total benefit pool:** This is your lifetime pool of money. It's based on a simple math. $3,000 x 25 months = $75,000.
- **Elimination period:** Should you need care, you have to first wait 90 days before the policy pays you the first dollar. Think of it as the deductible on your car insurance.
- **Inflation protection:** Your $3,000 monthly benefit doesn't stay at $3,000. It increases by 3% every year. For example, if you're 55 today, it will grow to $7,069.70 at age 85. By extension, your benefit pool increases by the same rate.
- **Underwriting class:** The Preferred class reflects a healthy person who is a nonsmoker. Based on your health, you can be "rated" or even declined. The better the underwriting class, the cheaper the premium.

Your benefits generally trigger when you can't perform 2 of 6 activities of daily living (ADLs) listed below:

Bathing
The ability to clean yourself and perform grooming activities like shaving and brushing teeth.

Dressing
The ability to get dressed by yourself without struggling with buttons and zippers.

Eating
The ability to feed oneself.

Transferring
Being able to either walk or move yourself from a bed to a wheelchair and back again.

Toileting
The ability to get on and off the toilet.

Continence
The ability to control your bladder and bowel functions.

Interestingly, the State program requires 3 out of 10 ADLs for benefit trigger. The 10 ADLs are: medication management, personal hygiene, eating, toileting, transferring, body care, bathing, ambulation/mobility, dressing, and cognitive impairment.

How much does it cost?

Now, let's look at the rates for the same policy at various ages for nonsmokers in good health. Again, this policy provides $3,000 monthly benefit for 25 months, growing at 3% with a 90-day elimination period.

	Annual Premium (Both Partners Apply)			Annual Premium (Single Applicant)			At Age 85 (3% Compound)	
Age	Male	Female	Total	Male	Female	Total	Monthly Benefit	Pool of Money
40	679.26	985.17	1,664.43	799.12	1,159.02	1,958.14	11,014.36	275,358.92
45	725.99	1,090.59	1,816.58	854.11	1,283.05	2,137.16	9,501.08	237,527.02
50	794.39	1,210.87	2,005.26	934.58	1,424.56	2,359.14	8,195.72	204,892.90
55	882.22	1,360.97	2,243.19	1,037.92	1,601.12	2,639.04	7,069.70	176,742.41
60	1,012.01	1,589.72	2,601.73	1,190.60	1,870.26	3,060.86	6,098.38	152,459.56

As you can see, the younger you are, the lower the premium. And premiums for females are higher than those for males. Furthermore, a couple applying together gets a discount.

Premiums are payable for life and can increase in the future. For those who want a shorter premium payment period and be done with it, there is a product that allows you to pay premium in one lump-sum or over 10 years.

Other option (non-traditional products)

In addition to the traditional long-term care insurance we've discussed thus far, you have two other product options:

Traditional life insurance with a long-term care rider

Hybrid product (also called asset-based or linked product)

For younger applicants, instead of a stand-alone long-term care insurance that they might not need for perhaps a half century or more, they might consider life insurance with a long-term care rider. This way, they can get their life insurance coverage (which they often need anyway) and build cash value while opting out of the tax.

Alternatively, as a part of their gifting strategy, parents can consider paying for life insurance with a long-term care rider for their children in their 20s and 30s.

As for hybrid products, as the name might suggest, it's a hybrid between long-term care and life insurance. Premium structures are often more flexible as you can pay in one lump-sum or over time. And unlike traditional long-term care insurance, premiums are guaranteed to never increase.

Like life insurance, there is a small death benefit should you never use long-term care benefits. Similarly, there is also a cash value which you can recoup, subject to vesting, if you decide to cancel the policy in the future.

Underwriting

The process of applying for long-term care insurance is itself relatively straightforward. In addition to paperwork, it generally involves only a phone interview and you typically won't get a visit from a nurse for an exam. There are exceptions, however. For example, if you haven't seen a doctor for the past 24 months, insurance company might require a paramedical exam with blood and urine samples.

A phone interview involves asking questions about your medical history, but the interviewer is also trying to assess your cognitive functions as you interact with them.

Underwriting for long-term care insurance is different from that for life insurance in that it evaluates one's morbidity (vs. mortality for life insurance).

Morbidity has to do with the state of being diseased or unhealthy. Think of fragility related to aging – high blood pressure, high cholesterol, extra pounds, arthritis, joint problems, cognitive decline, and so on. As we live longer, these health issues can become more pronounced and may lead to inability to perform some activities of daily living.

As a matter of practice, we ask every applicant to complete a health prequalification form. This has helped minimize surprises and disappointments, and saved time for all involved parties.

Actual costs of care

Our focus so far has been on the new payroll tax and the ways to avoid it with long-term care insurance. But beyond the theoretical exercise of tax avoidance, what does it actually cost to get long-term care in Washington State? According to Genworth Costs of Care Survey, the 2020 median monthly costs of care for Washington State are:

	Washington Median		Seattle Area Median	
	2020	2050*	2020	2050*
Homemaker service	$5,941	$14,420	$6,670	$16,190
Adult day health care	$2,167	$5,260	$2,027	$4,920
Assisted living facility	$5,750	$13,957	$6,750	$16,384
Nursing home (semi-private room)	$9,581	$23,256	$10,624	$25,787
Nursing home (private room)	$10,950	$26,579	$11,954	$29,015

*Projected at 3% annual growth rate.

Not surprisingly, costs of care are slightly higher for the Seattle area than the State as a whole.

Statistics on long-term care are quite sobering. You can read more about it on the Morningstar website. On the following page is a sample.

70%

Percentage of people turning age 65 who will need some type of long-term care services in their lifetimes

48%

Percentage of people turning age 65 who will need some type of **paid** long-term care services in their lifetimes

24%

Percentage of people turning 65 who will require paid long-term care for **more than two years**

15%

Percentage of people turning age 65 who will spend **more than two years** in a nursing home

3.7 YEARS

Average duration of long-term care need for **women**

2.2 YEARS

Average duration of long-term care need for **men**

Frequently asked questions

What if I get a policy, opt out of the tax, and then cancel it a few months later?

The law does not address this question, but it’s clearly counter to its intent. So we'll say jokingly, “We’ll leave it up to your conscience.” The State will most certainly come up with anti-abuse rules to combat this loophole.

What’s the minimum coverage I need to get to opt out?

Again, the law is silent on this issue, but this is what we know so far. According to Long-Term Services and Supports Trust Commission of the Department of Social and Health Services, "there are no standards of equivalent coverage that have to be met." Similarly, the Employee Security Department stated, "there is no minimum requirement of coverage under RCW 50B.04.085 for private long term care insurance policies."

For someone who wants a basic policy just to avoid the tax, we recommend $3,000 monthly benefit with 3% inflation protection to approximate State’s $100 daily benefit indexed with the CPI.

I am an employer. Can I provide policies for my employees?

You have two options:

- Multi-life program with “simplified issue.”
- Individual policies with discounts if 5 or more apply and are approved.

Simplified issue bypasses traditional underwriting and uses a health questionnaire instead. Interestingly, the carrier will not make an offer under simplified issue if the ratio of female employees is more than 50%.

The second option requires traditional underwriting as if you apply for your own coverage. You just get a “volume discount" for multiple people applying at once.

Next Steps

As you can see, there are several moving parts and important deadlines. You get only one shot at opting out. For additional information and details, you should consult your financial or insurance advisor.

You can also contact our team at Cultivant with any questions.

Wesley Kang
wesley@cultivant.com
(206) 385-5300

Hoon Kang
hoon@cultivant.com
(206) 385-5200

Christian Kang
christian@cultivant.com
(206) 742-5300

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